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October 19, 1994

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Mr. Caton:

Copies of the attached "Summary of Comments in CC Docket No. 94-54" have been served on several members of the Commission staff, pursuant to Section 1.1206(a)(1) of the Commission's Rules, 47 C.F.R. § 1.1206(a)(1). In addition, in accordance with Section 1.1206(a)(1), I am enclosing an original, duplicate, and one copy of the "Summary of Comments in CC Docket No. 94-54." The original and copy are to be included in the record in CC Docket No. 94-54 (FCC No. 94-145). Please stamp the duplicate and return it with the courier.

Respectfully submitted,

Karen Kincaid
Karen Kincaid
Wiley, Rein & Fielding

Enclosures

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SUMMARY OF COMMENTS

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY**

IN CC DOCKET NO. 94-54

**R. Michael Senkowski
Jeffrey S. Linder
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September 26, 1994

FOREWARD

On July 1, 1994, the FCC released its Notice of Proposed Rulemaking and Notice of Inquiry on Equal Access and Interconnection.¹ Comments were filed on September 12, 1994, and are briefly summarized herein. Reply comments are due on October 13.

We have done our best to represent each commenter's positions accurately on a range of issues within three pages and in a consistent format. Due to space and time constraints, however, many supporting arguments have been truncated and rephrased to conserve space. Accordingly, in all cases, it is highly advisable to review the actual commenter's text.

¹ Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Services, FCC 94-145 (rel. July 1, 1994).

TABLE OF CONTENTS

	<u>Page</u>
AIRTOUCH COMMUNICATIONS	1
ALLNET COMMUNICATION SERVICES, INC.	4
ALLTEL MOBILE COMMUNICATIONS, INC.	6
AMERICELL PA-3 LIMITED PARTNERSHIP	8
AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION, INC.	9
AMERICAN PERSONAL COMMUNICATIONS	11
AMERITECH CORPORATION	14
AMSC SUBSIDIARY CORPORATION	15
AT&T CORPORATION	16
MICHAEL B. AZEEZ D/B/A/ DEADWOOD CELLULAR TELEPHONE COMPANY, DURANGO CELLULAR TELEPHONE COMPANY, OHIO STATE CELLULAR PHONE COMPANY, INC., AND TRILLIUM CELLULAR CORPORATION	18
BELL ATLANTIC COMPANIES	20
BELLSOUTH CORPORATION	23
CALIFORNIA PUBLIC UTILITIES COMMISSION	27
CELLULAR SERVICE, INC. & COMTECH, INC.	29
CENTURY CELLUNET	31
CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION	33
CINCINNATI BELL TELEPHONE COMPANY	36
CLAIRCOM COMMUNICATIONS GROUP, L.P.	37
COLUMBIA PCS	38
COMCAST CORPORATION	40
COX ENTERPRISES, INC.	45

	<u>Page</u>
DAKOTA CELLULAR, INC.	47
DCR COMMUNICATIONS, INC.	48
DIAL PAGE, INC.	49
E.F. JOHNSON COMPANY	51
FIRST CELLULAR OF MARYLAND, INC.	53
FLORIDA CELLULAR RSA LIMITED PARTNERSHIP	54
GTE SERVICE CORPORATION	56
GENERAL SERVICES ADMINISTRATION (GSA)	59
GEOTEK COMMUNICATIONS, INC.	60
GRAND BROADCASTING CORPORATION	62
HIGHLAND CELLULAR, INC.	63
HORIZON CELLULAR TELEPHONE	64
LAKE HURON CELLULAR CORPORATION	65
LDDS COMMUNICATIONS INC., D/B/A LDDS/METROMEDIA	66
MCCAW CELLULAR COMMUNICATIONS, INC.	69
MCI TELECOMMUNICATIONS CORP.	72
MARITEL	74
MISCELLCO COMMUNICATIONS, INC.	76
NATIONAL ASSOCIATION OF RADIO UTILITY COMMISSIONERS (NARUC)	77
NATIONAL ASSOCIATION OF BUSINESS AND EDUCATIONAL RADIO, INC. (NABER)	78
NATIONAL CELLULAR RESELLERS ASSOCIATION	81
NATIONAL TELEPHONE COOPERATIVE ASSOCIATION	84
NEW PAR	85

	<u>Page</u>
NEW YORK STATE DEPARTMENT OF PUBLIC SERVICE	88
NEXTEL COMMUNICATIONS, INC.	90
THE NYNEX COMPANIES	93
ONECOMM CORPORATION	96
ORGANIZATION FOR THE PROTECTION AND ADVANCEMENT OF SMALL TELEPHONE COMPANIES	98
PACIFIC BELL AND PACIFIC BELL MOBILE SERVICES	99
PACIFIC TELECOM CELLULAR, INC.	102
PALMER COMMUNICATIONS, INC.	103
PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION (PCIA) . . .	105
POINT COMMUNICATIONS COMPANY	108
PUERTO RICO TELEPHONE COMPANY	110
RAND MCNALLY & COMPANY (RMC)	111
RAM MOBILE DATA USA LIMITED PARTNERSHIP	112
ROCHESTER TELEPHONE CORPORATION	114
RURAL CELLULAR ASSOCIATION	116
SACO RIVER CELLULAR TELEPHONE COMPANY	118
SMALL MARKET CELLULAR OPERATORS	119
SNET MOBILITY, INC.	120
THE SOUTHERN COMPANY	123
SOUTHWESTERN BELL CORPORATION	124
TELEPHONE AND DATA SYSTEMS, INC. AND UNITED STATES CELLULAR CORPORATION	128
TRIAD CELLULAR	131
TRW INC.	133

	<u>Page</u>
UNION TELEPHONE COMPANY	134
VANGUARD CELLULAR SYSTEMS	135
WATERWAY COMMUNICATIONS SYSTEM, INC.	138
WESTERN WIRELESS CORPORATION	140
WILTEL, INC.	142

AIRTOUCH COMMUNICATIONS

Interest: Current provider of cellular and paging services and future provider of broadband PCS services. (1-2)

Equal Access:

Cellular equal access:

- Supports equal access, but would define equal access as the obligation to unblock long distance carriers' 10XXX access codes. (3)
- Any regulatory intervention beyond unblocked 10XXX dialing will be more costly than beneficial in that most customers do not want "1+" equal access, and a competitive market will offer service plans for those who do desire such equal access. (3-6)
- "1+" equal access was logical in the context of the BOCs' ability to control a customer's access to long distance landlines, but is illogical and inefficient in the highly competitive CMRS market, where equal access can be cheaply and flexibly implemented through mandatory 10XXX unblocking. (6-8)
- Because non-BOC cellular carriers can (and do) bundle their long distance business and negotiate a better deal with IXCs than their customers could individually, "1+" equal access will have the effect of raising rates and reducing "toll free" service areas for mobile customers. (9-11)
- Presubscription balloting and allocation is enormously expensive to administer, does little to satisfy consumer demand, and provides an undeserved windfall for ATT, Sprint, and MCI. (17-18)

Equal access for other CMRS providers:

- To ensure regulatory parity, if cellular services are saddled with "1+" equal access, then so should all CMRS providers. (8-9)
- It is technologically inefficient and perhaps even impossible to apply "1+" equal access to many of the about to be offered CMRS technologies, including: Cellular digital

packet data systems (allowing digital data to be sent over CMRS), "500" or "one number" services, and mobile satellite services (offering seamless cellular services in remote areas lacking land-based facilities). (13-16)

- Equal access should not be mandated for the narrowband PCS and paging industries because intense competition and rapidly changing technology are making equal access both unnecessary and technically infeasible. (19-20)

Implementation:

- Although MTAs are the least intrusive equal access boundaries, the selection of any arbitrary (i.e. non-carrier selected) boundary will cause disruptions in long distance handoff, lead to a flood of waiver requests, and disadvantage customers, who demand wide calling areas. (11-13)

Other:

- In order to provide consumers with "one stop shopping" and low rates, cellular providers should be allowed to offer vertically integrated cellular and long distance services. (18-19)

LEC/CMRS interconnection:

- Opposes tariffing because good faith LEC/CMRS negotiations have and will continue to produce contracts which are better tailored to each CMRS provider's needs. (20-22)

CMRS/CMRS interconnection:

- Opposes mandatory interconnection because it will stifle competition, will provide competitors with unfair access to each other's technical specifications, and is unnecessary in light of the current policy of non-discrimination and the availability of the FCC complaint process. (22-23)
- If interconnection is mandated, it should not be tariffed, as the inflexibility of tariffs is inconsistent with the highly diverse CMRS market place. (23)

- Whatever action the FCC takes regarding interconnection, it should preempt state regulation so as to avoid a "balkanization" of the CMRS market. (26-27)

CMRS resale obligations:

- Switched based reselling should be left to market forces rather than be mandated because:
 - As of today there are no definite proposals as to how the switches are to be designed and where they will be integrated into the system. (24)
 - Resellers will be given all the benefits of the cellular system's technology but saddled with none of the burdens of managing existing or building new infrastructure. (24-25)
 - Resellers will gain unfair access to proprietary cellular technology and may make unreasonable network modification requests in order to sabotage their cellular competition. (25)
 - Inefficiencies will result from the need to duplicate call recordation and billing records in order to resolve billing disputes. (26)
 - Mandatory resale will require regulators to undertake the arduous task of determining what level of reimbursement is "reasonable." (26)

ALLNET COMMUNICATION SERVICES, INC.

Interest: Interexchange carrier

Equal access:

Cellular equal access:

- Cellular providers should be required to provide equal access. If equal access were available, Allnet could combine its long distance service features with the resold cellular services to its customers. (2-3)
- There is no technical or economic reason why equal access cannot be provided by the non-wireline cellular carriers. (3)

Equal access for other CMRS providers:

- Equal access should be imposed on any carrier that has market power, including all broadband carriers that offer switched voice services, and PCS and CMRS providers that provide cellular-like voice services. (4)
- Equal access requirements are not necessary for specialized, non-voice paging systems as there is no implicit or explicit access or IXC transport component to such services. (4)

Implementation:

- Equal access should be implemented upon bona fide request from an IXC. (5)
- Equal access obligations for CMRS providers should conform to the LATA boundaries established for the BOCs. Providers should be granted waivers of the boundaries by a showing of good cause. (5)
- CMRS providers should be required to provide at least one point of interconnection in each LATA in order to assure full interconnection equality. (5)
- IXCs should have the option of connecting directly to the cellular system or through a LEC tandem in order to ensure the most

efficient connection configuration for the particular circumstances. (5)

- One plus dialing is a necessary requirement for equal access. Without this presubscription, customers will not have a meaningful choice. (5)
- Balloting and allocation should be imposed in order to neutralize the cellular carrier bias. (6)
- Costs should be recovered through a non-discriminatory per-presubscribed line charge. (7)
- Billing-related data must be provided pursuant to tariffs in order to assure that they are provided on a non-discriminatory, reasonable basis. The requirements for each cellular carrier must include name, address, and telephone numbers, as well as the cellular screening, routing and delivery data in each customer's profile. (7)

CMRS resale obligations:

- Resale prohibitions should not be allowed. A general statement and publication of tariffs for access will assure that discrimination among resellers is detectable. Stronger measures may be required in the future. (7)
- As long as full equal access is available and number portability is not restricted, it is unnecessary to impose interconnection requirements on the cellular resellers. (7-8)

ALLTEL MOBILE COMMUNICATIONS, INC.

Interest: Cellular service provider.

Equal access:

Cellular equal access:

- Imposing equal access requirements on non-BOC cellular carriers is not in the public interest. (2)
- Equal access requirements were imposed on the BOCs for specific historical reasons. These reasons do not apply to non-BOC cellular carriers. (2-3)
- Non-BOCs do not have substantial leverage over competing providers of telephony. (3)
- Non-BOCs do not have bottleneck facilities as the BOCs do. (3)
- Non-BOCs commonly face competition from one landline provider and at least one other cellular provider. (4)
- Equal access will create substantial administrative and operational burdens for cellular carriers. (5)
- The imposition of costly equal access requirements would be especially troublesome now, when cellular carriers are attempting to expand and upgrade their networks. (5-6)
- Few benefits will be derived from imposing equal access requirements on non-BOC cellular carriers. (6)
- In contrast to pay telephone providers, cellular carriers are not the subject of great public dissatisfaction. (6)
- Cellular consumers already have some choice in picking their IXC. (6)
- Cellular customers will soon have new service options including Enhanced SMR, PCS, and Mobile Satellite Services.

Competition will lead businesses to accommodate consumer desires. (6-7)

- Equal access is unnecessary because the cellular market is not a monopoly bottleneck, and is already very competitive. (7)

LEC/CMRS interconnection:

- The Commission should not adopt tariff requirements for LEC/CMRS interconnection. Tariffing would entail substantial administrative costs and lead to less flexibility. (7)

CMRS/CMRS interconnection:

- The Commission should not impose costly interconnection requirements on all CMRS providers. (8)
- CMRS providers will be able to interconnect with each other through the local exchange or voluntary agreements. (9)

CMRS resale obligations:

- The Commission should not impose resale requirements on all CMRS providers. (8)
- The advent of multiple facilities-based providers will ensure consumer choice. Avoiding resale obligations will provide incentives to build-out new services. (9)
- Any resale requirements adopted should be applied to all CMRS providers. (9)

AMERICELL PA-3 LIMITED PARTNERSHIP

Interest: Nonwireline cellular carrier.

Equal access:

Cellular equal access:

- Opposes the imposition of equal access requirements upon independent cellular providers for the following reasons:
 - There are no historic or other public policy justifications for imposing equal access upon independent cellular providers, as independent cellular carriers do not directly control local exchange facilities. Moreover, the competitive status of the mobile services marketplace does not justify the imposition of the burden that equal access would create. (2)
 - Equal access will impose large (and unwarranted) costs on both independent cellular operators and consumers. The costs of implementing and maintaining equal access will be significant and independent carriers lacking substantial financial resources will be forced to pass such costs on to consumers or go out of business. Equal access would also foreclose the ability of independent cellular carriers to obtain volume discounts from IXC's. (3)
 - Equal access will stunt the development of the independent cellular industry by discouraging investments in seamless wide-area systems, creating disincentives for further improvements, and hampering cellular operators' ability to compete against other wireless providers. (3-4).
 - Equal access will yield no countervailing public policy benefits, as imposition will decrease investment in and upgrading of cellular networks. In addition, most evidence suggests that cellular customers do not desire equal access. (4)

AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION, INC.

Interest: Trade association representing commercial wireless service providers including the majority of private carriers that have been reclassified as CMRS.

Equal access:

Cellular equal access:

- Opposes extending equal access obligations to all cellular carriers. The alleged benefits of extending equal access can be achieved more efficiently in the marketplace. (6)

Equal Access for other CMRS providers:

- Even if the Commission imposes mandatory equal access obligations on cellular carriers, traditional SMR services should be exempt. (7)
- Equal access would have a devastating effect on SMR operators due to high costs, and the functional inability of certain systems to meet the requirements. As a result, customers would lose the convenience of interconnected service provided in conjunction with dispatch communications. (8)
- The current limited interconnect capabilities of SMR operators has not been an impediment to growth, as most system operators provide interconnection only incidentally to their primary dispatch service. (9)

Implementation:

- If equal access obligations are imposed on ESMR operators, these obligations should be narrowly tailored and phased in. (9)
- The switching platforms currently available to ESMR operators cannot provide equal access. Therefore, any equal access obligations imposed on ESMR operators should be delayed until the necessary equipment can be put in place. (10)
- Due to the substantial economic costs of complying with equal access, any equal access obligations placed on ESMR or CMRS should be

the minimum required to meet the Commission's goals. (11)

- Any equal access requirements should be delayed until the end of the transition period to expand Feature Group D Carrier Identification Codes from three to four digits. (11-12)

LEC/CMRS interconnection:

- The Commission should not, at least initially, mandate tariff filings. Instead, the current system of good faith negotiations should be continued but the executed contracts should be filed with the Commission. The Commission could then retain oversight and assume an ombudsman role in ensuring equitable treatment among CMRS providers. (13-14)

CMRS/CMRS interconnection:

- The inquiry into CMRS/CMRS interconnection is premature. Mandated interconnection may disadvantage the new entrant's initiation of service. Moreover, all CMRS systems are, by definition, interconnected with the PSTN in some form. The Commission should defer consideration of this issue until the CMRS industry is more developed. (14)

CMRS resale obligations:

- Mandatory resale obligations are unnecessary. There is likely to be vigorous competition among various service providers. Competition can be satisfied in the CMRS marketplace through direct licensing. (14-15)

AMERICAN PERSONAL COMMUNICATIONS

Interest: Future PCS provider.

Equal access:

Equal access for other CMRS providers:

- The overwhelming majority of cellular subscribers will soon have equal access to any IXC. In order for PCS and wide-area SMR licensees to be competitive they will also have to offer equal access. (2)
- Equal access is unnecessary and will likely result in increased costs without any benefits to consumers. CMRS providers should be allowed to implement equal access in the most cost effective manner that satisfies consumer demand. (2)
- The imposition of equal access burdens will inhibit start-up systems, such as PCS, from becoming fully competitive with cellular. (3)
- Requiring particular equal access arrangements may limit the ability of PCS providers to offer innovative long distance services to their customers. (3)

Implementation:

- The Commission should allow CMRS providers to offer innovative wide-area services. Customer demand and the costs to the licensee of providing service over a wide area should dictate when a call will be handed off to an IXC. (3)
- The Commission should not require that CMRS providers offer more than a single point of interconnection with the IXC. (4)

LEC/CMRS interconnection:

- LECs have consistently resisted implementing mutual compensation for interconnection. The Commission must require that all LEC/CMRS interconnection agreements provide for mutual compensation for both interstate and intrastate traffic. (4-5)

- Requiring LECs to file tariffs for interconnection services would not resolve the mutual compensation problem but would create new problems (e.g. transaction costs and delays). (5)
- Requiring "most favored customer clauses" will offer little or no protection to CMRS providers, and may result in disputes over the type of interconnection contemplated by the contract. (5)
- There is no benefit to requiring LEC interconnection agreements to be filed with the Commission. If the Commission does impose such a requirement, it should delete all information pertaining to the CMRS provider and its particular circumstances. Moreover, no fee or format should be required. (5-6)

CMRS/CMRS interconnection:

- Marketplace incentives should encourage interconnection between CMRS providers. Nonetheless, the Commission should establish interconnection guidelines for CMRS providers to promote efficient access to telecommunications networks and to advance competition. (6)
- The Commission should require CMRS providers to provide interconnection service upon reasonable request and at just and reasonable rates. (PCS providers should be classified as nondominant providers, and their rates should be presumed reasonable, while cellular providers should be classified as dominant providers). CMRS providers should not be permitted to discriminate in offering interconnection services. (7)
- With respect to PCS-cellular interconnection arrangements, cellular providers should be required to interconnect HLR and VLR databases and to provide such interconnection within one year of the PCS providers' requests. (7)

CMRS resale obligations:

- The Commission's general resale requirements should be imposed on all broadband CMRS providers with restrictions so that CMRS providers do not abuse resale opportunities to avoid building out their systems. (8)

- The Commission should not exempt cellular providers from providing resale opportunities to facilities-based CMRS competitors in their service areas. Indeed, because of cellular's dominant market position, PCS providers should be permitted to restrict the sale of PCS service to cellular carriers in the same service area. (8)
- The Commission should require that roaming be available between all broadband offerings where technically feasible. However, the Commission need not mandate equipment standards. (8-9)

AMERITECH CORPORATION

Interest: Regional Bell Operating Company.

Equal access:

Cellular equal access:

- Favors equal access because the BOC mobile carriers are subject to the MFJ's equal access provisions, and regulatory parity demands that all cellular carriers be subject to the same regulatory obligations. (1)
- Favors applying "1+" access or another abbreviated form of dialing because the BOC mobile carriers are already subject to this obligation. (2)

Equal access for other CMRS providers:

- To ensure regulatory parity, favors equal access for the CMRS services (e.g. SMR, broadband PCS) that will directly compete with cellular services. (2)
- Against equal access for CMRS services (e.g. one-way paging) that will not compete with cellular services. (2)

LEC/CMRS interconnection:

- Against tariffing, because good faith negotiations produce more flexible agreements which will be both better tailored to new technologies and will ultimately save consumers money. (3)
- Against "most favored nation" clauses because such clauses will engender a great deal of litigation about their applicability to various carriers. (3)
- Favors filing interconnection agreements with the FCC as a safeguard against unreasonable discrimination. (3)

CMRS/CMRS interconnection:

- Against mandatory interconnection because the technology is still too unsettled to force such interconnection, and CMRS providers do not occupy "bottleneck" positions.

AMSC SUBSIDIARY CORPORATION

Interest: MSS licensee.

Equal access:

Equal access for other CMRS providers:

- Opposes application of equal access requirements to MSS providers because it would impose additional costs on AMSC, and thus on customers, without any corresponding consumer benefits. (7)
- MSS is a nationwide service so the FCC's proposal to adopt a service area boundary for purposes of equal access correctly appears to relieve MSS providers of this obligation. To require AMSC to provide equal access for the interexchange portion of every call on the system is to alter the original concept of MSS as an end-to-end nationwide service. (8)
- In order to market its service, AMSC has designed a rate structure that is the same for all calls. If the FCC imposes an equal access requirement, this simplicity will disappear and customers will receive two separate bills for virtually every call, regardless of whether it appeared to be a local call. In addition, AMSC is passing through its volume discounted rate to customers so equal access will only result in higher rates for customers. (9-10)
- An equal access balloting process would be difficult because AMSC's sales agents are throughout the country. Also, it would take a minimum of two years from the time any obligation became effective for AMSC to install the necessary hardware and software without disrupting introduction and provision of service. (11)
- Imposing equal access on AMSC will not promote any public policy goals. The FCC has already determined that AMSC lacks market power, rates for MSS will not decrease, competition will not increase since IXC's that have not marketed to millions of BOC cellular customers are not going to market to no more than 600,000 MSS customers, and MSS customers will have access to the same telecommunications networks and services as they would have with equal access. (12)

AT&T CORPORATION

Interest: Long distance carrier.

Equal access:

Equal access for other CMRS providers:

- Equal access obligations should be imposed uniformly on all CMRS providers. (3)
- Equal access ensures that customers have a wide range of choices and thereby allows interexchange carriers to compete on the basis of the quality and price of their services. (3)
- The equal access obligations that have already been imposed have led to improved services and an increase in "buyer power" in the interexchange business. These consumer benefits should be made available to as many customers as possible. (4-5)
- The rules governing equal access obligations of CMRS providers should be established now so that providers can incorporate the requirements into their developing business plans. (6)
- Without equal access requirements, interexchange carriers are not able to plan and offer their services on a uniform nationwide basis. (6)
- All wireless services are or will become substitutable for one another. Irrespective of the high level of competition, the equal access obligations should be adopted because the significant consumer benefits outweigh the minimal incremental costs. (8)

Implementation:

- The landline equal access rules should be used as a model for all CMRS providers. The adoption of consistent rules will maximize consumer benefits and fulfill the statutory mandate to employ consistent regulation for similar services. (9)

- If a CMRS provider can demonstrate that application of the equal access rules to its particular circumstance would not serve the public interest, the Commission has the authority to waive the requirements. (9)
- The Commission should establish a date (such as 18 months after the release of the Order), by which all existing systems must provide equal access. New systems deployed after that date must provide equal access before they are placed in service. (10)
- Adopting LATAs as the initial service areas for CMRS equal access will serve the public interest and ensure symmetrical regulation as LATAs are well known service areas. If warranted, the Commission has the flexibility to adopt a different service area definition for a particular provider. (11)

LEC/CMRS interconnection:

- Individually negotiated contracts afford LECs with the flexibility to meet the needs of CMRS providers. (12-13)
- The Commission should require that LECs file all carrier-to-carrier interconnection agreements with the Commission in order to facilitate compliance with the interconnection obligations. (13)

CMRS/CMRS interconnection:

- CMRS-to-CMRS interconnection would serve the public interest by facilitating the use and interaction of a variety of services, and eliminating the need to pass through a LEC switch. However, due to the developing nature of CMRS, the Commission should not yet promulgate a rule. Instead, the Commission should adopt a policy favoring CMRS-to-CMRS interconnection. (13-14)

CMRS resale obligations:

- Competitive market forces will assure that resale opportunities will be made available where efficient. However, there will probably be enough direct competition in the CMRS market that resale will be unnecessary or uneconomical. The Commission's resale policies must not distinguish among competing CMRS providers. (14)

**MICHAEL B. AZEEZ D/B/A/
DEADWOOD CELLULAR TELEPHONE COMPANY,
DURANGO CELLULAR TELEPHONE COMPANY,
OHIO STATE CELLULAR PHONE COMPANY, INC., AND
TRILLIUM CELLULAR CORPORATION**

Interest: Entrepreneur owned and operated cellular licensees providing service in small rural service areas.

Equal access:

Cellular equal access: Oppose imposition of equal access on independent cellular carriers:

- Experience has shown that small carriers must aggregate their customers' long distance traffic in order to get the benefit of volume discounts from IXCs. The only practical way to access IXCs is via a Type 1 connection and switched access. Having to implement a Type 2 connection would be totally inefficient because there is no access tandem anywhere in the service area. Imposition of equal access would impose additional costs without additional benefits. (2, 5-6)
- NPRM does not set forth rationale for applying equal access requirements to non-affiliated cellular systems. Experience has shown that customers complain about service quality and availability rather than price. FCC cannot make conclusions by comparing landline telephony to cellular services because of this difference. (3-4)
- Cost of implementing equal access would be placed totally on the cellular carrier and may result in situations where the costs of equal access are incurred even though the IXCs have no intention whatsoever of competing for the traffic affected. For cellular, unlike landline service, no investment is required by the IXC beyond what is already made for landline service. (6)
- Deadwood et al. offer various rate plans to customers so that they can receive some discounts by aggregating several customers' traffic. This is in the carriers' interest even in the absence of equal access because it encourages system usage and generates additional profits. (7-8)
- The volume of long distance traffic generated by commenters' customers is less than landline traffic